

PATENT

## In re Reissue Application of

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## Applications Branch

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## REISSUE DECLARATION AND POWER OF ATTORNEY

We hereby assert that this application to reissue the above identified patent has been filed in order to correct a defect in that patent in that it is partially inoperative in that it claims less than the inventors had the right to claim. Reference is made to new claims 49-67 added to this patent by this reissue application as evidence of the newly claimed material that could have been claimed by us in the original patent, and now is being claimed by us. We further assert that this application to reissue has been filed in order to correct an error in the manner in which the angle of the radiation beam is characterized; degrees not being the conventional, preferred manner of referring to a solid angle. Reference is made to amended claims in this regard.

These errors arose without deceptive intent. They were discovered as a consequence of this patent being routinely reviewed by one of the inventors.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent reissued thereon.

We hereby appoint the following attorneys: Allan M. Lowe, Reg. No. 19,641; Benjamin J. Hauptman, Reg. No. 29,310; Israel Gopstein, Reg. No. 27,333; Kenneth M. Berner, Reg. No. 37,093, Michael G. Gilman, Reg. No. 19,114 and Randy Noranbrock, Reg. No. 42,940 all of:

LOWE HAUPTMAN GOPSTEIN  
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with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith, and  
**ALL FUTURE CORRESPONDENCE SHOULD BE ADDRESSED TO THEM.**

\*\*\*\*\*

Full name of first joint inventor: Waldean A Schulz

Inventor's signature: *Waldean A Schulz*

Date: 2000 Jun 26

Residence: 440 Japonica Way, Boulder, CO 80304

Citizenship: USA

Post Office Address: C/O Image Guided Technologies, Inc.

5710-B Flatiron Parkway, Boulder, CO 80301

Full name of second joint inventor: Ivan Faul

Inventor's signature: *Ivan Faul*

Date: July 13, 2000

Residence: 323 Overlook Drive, Boulder, CO 80302

Citizenship: Canada

Post Office Address: C/O Image Guided Technologies, Inc.

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005730-10204960

Full name of third joint inventor: Ronald M. Pasquini

Inventor's signature: Kenneth M. Taylor

Date: 7-24-00

~~Residence: 3050 Corona Trail #304, Boulder, CO 80301~~

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Citizenship: USA

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Full name of fourth joint inventor: Daniel J. Harrison

Inventor's signature:

Date: 7-27-2000

Residence: ~~246 Shady Hollow, Nederland, CO 80466~~

136 Cougar Run Nederland CO 80468

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Post Office Address: C/O Image Guided Technologies, Inc.

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Full name of assignee: Image Guided Technologies, Inc.

Assignee's signature by \_\_\_\_\_

## Vice President

Date June 26, 2000

### Post Office Address and residence

5710-B Flatiron Parkway  
Boulder, CO 80301

Docket No.: 7319-7002RI

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of

Waldean A. SCHULZ et al.

Reissue application of Patent No.  
5,907,395

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: Applications Branch  
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Filed: June 6, 1997

For: OPTICAL FIBER PROBE FOR POSITION MEASUREMENT

CERTIFICATE UNDER 37 CFR 3.73(b)

Honorable Assistant Commissioner  
for Patents  
Washington, D. C. 20231

Sir:

Applicant: IMAGE GUIDED TECHNOLOGIES, INC. certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of:

A. ☒ An assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel 8865, Frame 0211, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent identified above, to the current assignee as shown below:

1. From: To:  
The document was recorded in the Patent and Trademark Office at Reel , Frame .
2. From: To:  
The document was recorded in the Patent and Trademark Office at Reel , Frame .
3. From: To:  
The document was recorded in the Patent and Trademark Office at Reel , Frame , or for which a copy thereof is attached.

008730-1640794

[ ] Additional documents in the chain of title are listed on a supplemental sheet.

[ ] Copies of assignments or other documents in the chain of title are attached.

The undersigned has reviewed all the documents in the chain of title of the patent application identified above and, to the best of undersigned's knowledge and belief, title is in the assignee identified above.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 2000 June 26

Name: Waldean A. Schutz

Title: Vice President of Technology

Signature: Waldean A. Schutz

005130-10207950

Applicant or Patentee: Waldean A. SCHULZ, et al.

Attorney's Docket No.: 7319-7002RI

Serial or Patent No.: Reissue application of p. no. 5,907,395 issued on May 25, 1999

Filed or Issued:

For: OPTICAL FIBER PROBE FOR POSITION MEASUREMENT

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF ORGANIZATION: Image Guided Technologies, Inc.

ADDRESS OF ORGANIZATION: 5710-B Flatiron Parkway, Boulder, CO 80301

I hereby declare that the above identified small business concern qualified as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, oral third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled OPTICAL FIBER PROBE FOR POSITION MEASUREMENT by inventor(s) Waldean A. SCHULZ, et al. described in

- [ X ] the specification filed herewith.  
[ ] application serial no. , filed .  
[ ] patent no. , issued .

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e). \*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☒ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☒ INDIVIDUAL      ☐ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Waldean A. Schulz

TITLE IN ORGANIZATION: Vice President

ADDRESS OF PERSON SIGNING: 5710-B Flatiron Parkway, Boulder, CO 80301

SIGNATURE: Waldean A. Schulz

DATE: 2000 June 26